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**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**



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| In the Matter of: | ) | |
| | ) | CC Docket No. 95-116 |
| Telephone Number Portability | ) | |

## REPLY COMMENTS OF PACIFIC BELL

Pacific Bell, by its attorneys, respectfully submits this reply to the further comments requested by the Commission regarding the effects of the Telecommunications Act of 1996 on the above-captioned number portability proceeding.[1]

## I. AT&T'S LRN PROPOSAL IS NOT A "DONE DEAL"

AT&T's Location Routing Number (LRN) approach is one of several long-term number portability proposals that have been advanced in state number portability proceedings. However, in contrast to the statements of several commenters, AT&T's LRN has not been accepted as a consensus long-term solution, is not currently technically feasible, and likely is not the best alternative for all carriers.

As an initial matter, the Commission must not be mislead into thinking that there is universal support for AT&T's LRN. While it is true that the majority of participants in state proceedings have favored AT&T's LRN, this is a numerical truism rather than an indication of underlying merit; there are far more new entrants than incumbents, creating a misleading impression of overwhelming support. Moreover, the argument that a consensus has formed

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[1] DA 96-358, released March 14, 1996, *citing* Telephone Number Portability, FCC 95-284 (released July 13, 1995) ("NPRM").

rests on a mischaracterization of actions at the state level, including California. In contrast to the statements of several commenters,[2] the California Local Number Portability Task Force did *not* achieve a consensus recommendation. Rather, prospective local exchange competitors backed AT&T's LRN, while consumer groups (including the California PUC staff) and incumbent LECs favored Pacific's Carrier Choice proposal, under which carriers would be allowed to select the most efficient technology for their own networks.[3]

In addition, there is no evidence from which the Commission can conclude that AT&T's LRN is technically feasible. It has not been tested at all, and many of the technical problems surrounding its implementation have yet to be addressed. As GTE detailed in its comments, neither AT&T nor the task forces studying LRN in Illinois and California have considered many important issues, including the impact on operations systems; how basic functions such as number assignments and trouble reporting will be handled; and the impact on ordering, provisioning, maintenance, service testing, service billing and other billing systems and Network Management systems.[4]

GTE also pointed out that proponents of AT&T's LRN have provided no reliable information regarding implementation costs.[5] As Pacific explained in its comments,

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[2] *See* Comments of AT&T Corp. at 3 n.3; Comments of Sprint Corporation at 2 n.2; Further Comments of Time Warner Communications Holdings, Inc. at 7 ("Time Warner").

[3] *See* Further Comments of Pacific Bell at 2-4 ("Pacific Bell").

[4] Comments of GTE Service Corporation at 5-6. *See also* Comments of NYNEX at 5 (concluding that LRN does not address continued viability of services such as Automatic Recall and Automatic Callback or issues surrounding Operator Services, especially LIDB). Additionally, the reliability of LRN has not yet been analyzed.

[5] GTE at 5 n.11.

however, AT&T's LRN would be extremely expensive to implement in existing systems, likely costing Pacific $1 billion over a three-year period.[6] This was a major factor in the California Department of Consumer Affairs's decision to support Pacific's Carrier Choice proposal rather than AT&T's LRN:

> [O]ne of the advantages of the common routing solution is that it allows each telecommunications provider to select the triggering mechanism which is most efficient and cost effective for its network. In a truly competitive market, each provider will adopt the triggering mechanism which is most efficient, and at the same time most cost-effective. That is because, in order to stay in business, it will need to provide local number portability at a price which it can pass on to its customers and, at the same time, remain competitive with other providers.[7]

In defending its proposal, AT&T and others rely heavily on the fact that Illinois has adopted LRN and developed an implementation schedule. The Illinois proceeding, however, did not include input from carriers representing three-quarters of the nation's access lines. Notably, in fora where there is full representation (e.g., INC, T1S1), there has been no consensus favoring AT&T's LRN. In addition, the conclusions reached by the Illinois Commerce Commission, including its 1997 implementation schedule, ignore the cost and operational issues discussed above and are based on several incomplete and possibly untenable assumptions. For example, the Illinois report states:

> This release of the GR [Generic Requirements] does not fully address the billing issues associated with identifying multiple service providers on the same switch (no service provider line attribute); especially when the number ports from one service provider to another on the same switch.

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[6] Pacific Bell at 7.

[7] Comments of the California Department of Consumer Affairs on the California Local Number Portability Task Force Report Dated February 29, 1996, Public Utilities Commission of the State of California, R.95-04-043, I.95-04-044 (filed March 14, 1996) at 11.

This issue must be resolved before any long-term number portability approach can be implemented, given the level of resale that likely will occur soon after local competition begins. In California alone, approximately sixty local exchange resellers have already been authorized. Similarly, the report concedes that it "does not address the issues related to porting subscribers out of a non-LNP capable switch." This issue also must be resolved prior to implementation of long-term number portability, since many switches initially will not be LNP capable.

The fervor with which certain parties embrace AT&T's LRN proposal cannot minimize the significant remaining uncertainties. Mandating technology through the regulatory process is always risky, but mandating AT&T's LRN approach at this stage in its development would be particularly unsound. AT&T's LRN is costly and unproven; while it may prove a viable option for some carriers in the not-too-distant future, it should not be thrust upon all in the interests of expediency.

## II. ALTERNATIVE MECHANISMS SUCH AS QOR HOLD PROMISE AND ARE CONSISTENT WITH THE ACT'S REQUIREMENTS

Because of the uncertainty surrounding the feasibility and costs of LRN, most RBOCs and large independent telephone companies are considering more efficient and less costly alternatives, including QOR. As explained in Pacific's comments, "the query on release trigger attempts to complete a call to the switch where the NPA-NXX of the dialed number resides. If the number is served by the incumbent switch, the call is completed as it is today. If the number is ported, the call is released back to a previous switch in the call path,

which performs a query to determine the location routing number of the new serving switch."[8] This is far more efficient than performing unnecessary queries.

MCI mistakenly claims that QOR disadvantages competing service providers in several ways.[9] First, MCI states that QOR will cause a delay because calls will be routed to the incumbent LEC in the first instance. However, MCI admits that "[t]he additional delay may not be perceptible to the calling user" and bases its claim that this imperceptible delay is anti-competitive on the speculative possibility that the incumbent LEC may use this as an advertising ploy. Such unsupported claims cannot be the basis for sound policy.

MCI similarly suggests that *any* difference in delay or variation in treatment between ported and non-ported numbers is proscribed by the Act. This is plainly untrue: the Act permits reasonable differences that do not impair quality.[10] Moreover, AT&T's LRN itself does not treat all calls identically. All calls that leave an LRN carrier's network will be queried, whereas any intra-switch calls originated by that carrier will not be queried. This disparity is particularly significant because the switches of new entrants will have far broader coverage than those of incumbents.

MCI further asserts that QOR will force new service providers to continue to be dependent on the incumbent LEC. Under Pacific's Carrier Choice proposal, however, QOR is not mandatory. Any service provider is therefore free to bypass the incumbent LEC by using a different triggering mechanism, such as AT&T's LRN.

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[8] Pacific Bell at 4.

[9] Comments of MCI, Attachment B at 2 ("MCI").

[10] *See* 47 U.S.C. § 153(a)(46).

Finally, MCI alleges that using QOR to provide number portability will increase costs by requiring additional development.[11] Just the opposite is true. Allowing carriers to choose the most efficient method for implementing number portability will lower costs, not increase them. Indeed, it is AT&T's LRN, not Pacific's Carrier Choice proposal, that will drive up costs, particularly for incumbent carriers.

## III. THE FCC SHOULD ALLOW CARRIERS TO CHOOSE HOW TO BEST IMPLEMENT NUMBER PORTABILITY

To promote competition, encourage innovation, and avoid unnecessary costs to consumers, the Commission should determine the type of routing information to be passed between networks on ported calls and establish service quality standards. Within this framework, however, it should allow carriers to choose the technology that best enables them to meet the Commission's rules.[12] In some cases, LRN may be the most cost-effective alternative. In other cases, QOR or other methods may be more efficient and less costly to implement while still meeting the Act's requirements.

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[11] MCI likewise claims that QOR would increase trunking costs. However, Pacific estimates that any additional holding time due to QOR would represent an increase of less than 1/2% in volume and thus have little or no effect on trunking requirements.

[12] As the California Infrastructure Report explained, regulators should,

> [t]o the maximum extent possible, maintain a technology-neutral policy that emphasizes "performance standards" over technology-specific standards to allow telecommunications providers to tailor their use of technology in a manner which best meets their needs.

Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure, Executive Summary at x.

The Commission also should take two additional steps to assure expeditious progress toward long-term number portability. First, it should monitor proposed and ongoing state trials of different number portability proposals and require comprehensive reporting of all findings and conclusions. Second, as suggested by GTE, the Commission should direct T1S1.3 to develop standards relating to number portability, instruct INC or ICCF to develop procedures for coordination of areas with and without portability, and require final actions from these entities by a date certain. Proceeding in this manner will assure that the operational issues discussed above are properly addressed; in contrast, the headlong rush to implementation suggested by new entrants may engender potentially grave operational consequences.

## IV. IMPOSING THE VAST MAJORITY OF NUMBER PORTABILITY COSTS ON INCUMBENT LECS IS NOT COMPETITIVELY NEUTRAL

Technical feasibility is, of course, only one of the Act's two major requirements regarding number portability. The other, which has received relatively little attention, is the requirement that the costs of number portability be recovered from all telecommunications carriers on a competitively neutral basis.[13] Notwithstanding this clear directive, several new entrants contend that incumbent LECs should bear all of the costs of internal network upgrades, as well as a proportion of shared costs determined by the relative number of lines possessed by each carrier.[14]

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[13] 47 U.S.C. § 251(e)(2).

[14] Comments of Cox Enterprises, Inc. at 5 ("Cox") (stating that each carrier should bear its own costs of implementation); Comments of Omnipoint Corporation at

(continued...)

Compelling incumbent carriers to bear the vast majority of the costs associated with long-term number portability cannot be considered competitively neutral. Under the approach preferred by the new entrants, Pacific would be forced to raise rates to its customers (if permitted by the California PUC) or short-change its shareholders, leaving new entrants, who will reap most of the benefits of long-term portability, to exploit significant but artificial cost advantages.[15] Such a result is regulatory gamesmanship of the worst kind; the kind of thumb-on-the-scales approach that the Act was intended to leave in the past.[16]

To comply with the Act's requirement of competitively neutral cost recovery, the Commission should mandate that all costs of achieving long-term number portability, whether internal or external to a particular carrier's network, be shared equitably by all telecommunications carriers. The precise mechanism for doing so can be designed concurrently with the development of software by manufacturers and standards by appropriate industry bodies. As long as the Commission adopts the basic contours of the

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[14](...continued)
8-9 ("Omnipoint") (stating that each LEC should pay the costs of upgrading its own network but that common costs should be shared on a pro rata basis); Time Warner at 9 (concluding that carriers should absorb their own costs of implementation and should recover common costs based on number of subscriber lines in each region).

[15] Not surprisingly, the parties supporting the extremely expensive LRN approach also expect incumbents to pay the full freight. Sharing the costs equitably, as required by the Act, will compel these parties more objectively to evaluate the merits of alternative approaches.

[16] By the same reasoning, forcing incumbent LECs to assume most or all of the cost of interim number portability measures is not competitively neutral because the incumbent LEC will be subsidizing its competition. *See* MCI at 8; Comments of MFS Communications Company, Inc. at 8. In any event, California is addressing rates for RCF; since many states are already providing oversight in this area, the FCC should concentrate on the long-term proposals.

cost recovery mechanism by August 8, it will have discharged its obligations under Section 251(e)(2).

## V. IMPLEMENTATION OF NUMBER PORTABILITY IS NOT AND CANNOT BE A PREREQUISITE TO BOC INTERLATA ENTRY

Finally, a handful of commenters assert that the RBOCs can not be allowed to enter the in-region interLATA market until long-term number portability has been implemented.[17] This interpretation is at odds with the plain language of the Act. Specifically, the Act states that an RBOC must be permitted to offer in-region, interLATA telecommunications as soon as fourteen conditions are met, one of which is "*interim* telecommunications number portability,"[18] and the FCC finds that entry is in the public interest. By seeking to delay entry pending implementation of long-term number portability, notwithstanding the clear statutory language, these commenters in effect are requesting that the Commission expand the checklist. This, the Commission cannot do.[19]

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[17] *See, e.g.*, Omnipoint Corporation at 6; Cox at 5-7; Time Warner at 8 n.19.

[18] 47 U.S.C. § 271(c)(2)(B)(xi)(emphasis added). Once the Commission adopts rules governing long-term number portability, the RBOCs must of course comply with those rules. *Id.*

[19] 47 U.S.C. § 271(d)(4).

## V. CONCLUSION

Instead of mandating technology, the Commission should implement Pacific's Carrier Choice proposal and develop a competitively neutral cost recovery mechanism that spreads the costs of long-term number portability equitably among all telecommunications carriers.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 1996, I caused a copy of the foregoing "Reply Comments of Pacific Bell" to be sent via first class mail, postage prepaid to the parties named on the attached service list.

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